

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA  
3

4 Natasha Hicks,  
5 Plaintiff

6 v.

7 Dollar General Market, et al.,  
8 Defendants  
9

2:15-cv-0405-JAD-PAL

**Order**

[ECF Nos. 31, 35, 36]

10 On July 17, 2017, I granted Dollar General Market's motion to quash service, explained  
11 to plaintiff Natasha Hicks the deficiencies in her service, and gave her an additional 30 days to  
12 properly serve Dolgen Midwest, LLC, dba Dollar General.<sup>1</sup> I warned Hicks that her failure to  
13 serve Dolgen Midwest with a copy of the amended complaint and summons by August 16, 2017,  
14 would result in dismissal without further notice.<sup>2</sup> When Hicks asked for additional time, I gave  
15 her a final deadline of September 15, 2017, to serve Dolgen.<sup>3</sup> I warned her that "[f]ailure to do  
16 so will result in this case being dismissed without further notice" and that "[t]his deadline will  
17 not be extended further without extraordinary circumstances."<sup>4</sup>

18 Instead of serving Dolgen as ordered, on the eve of the deadline, Hicks filed a motion to  
19 amend her complaint a second time,<sup>5</sup> and then on the September 15th service deadline, she filed a  
20 motion asking the court to direct the U.S. Marshal Service to serve process for her.<sup>6</sup> Dolgen  
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22 <sup>1</sup> ECF No. 25.

23 <sup>2</sup> *Id.*

24 <sup>3</sup> ECF No. 28.

25 <sup>4</sup> *Id.*

26 <sup>5</sup> ECF No. 31.

27 <sup>6</sup> ECF No. 35.  
28

1 countermoves to dismiss this case, as the court promised it would if Hicks failed to meet the  
2 September 15th service deadline.<sup>7</sup>

3 District courts have the inherent power to control their dockets and “[i]n the exercise of  
4 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.<sup>8</sup> A  
5 court may dismiss an action based on a party’s failure to prosecute an action, failure to obey a  
6 court order, or failure to comply with local rules.<sup>9</sup> In determining whether to dismiss an action  
7 on one of these grounds, the court must consider: (1) the public’s interest in expeditious  
8 resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the  
9 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the  
10 availability of less drastic alternatives.<sup>10</sup>

11 The first two factors, the public’s interest in expeditiously resolving this litigation and the  
12 court’s interest in managing its docket, weigh in favor of dismissal. The third factor, risk of  
13 prejudice to defendants, also weighs in favor of dismissal because a presumption of injury arises  
14 from the occurrence of unreasonable delay in filing a pleading ordered by the court or  
15 prosecuting an action.<sup>11</sup> A court’s warning to a party that its failure to obey the court’s order will  
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17 <sup>7</sup> ECF No. 36. Because I would dismiss this action *sua sponte* for failure to comply with my  
18 order anyway, I do not wait for Hicks’s response to the motion to dismiss.

19 <sup>8</sup> *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

20 <sup>9</sup> See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with  
21 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to  
22 comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439,  
23 1440–41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se*  
24 plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130  
25 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779  
F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with  
local rules).

26 <sup>10</sup> *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;  
27 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

28 <sup>11</sup> See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

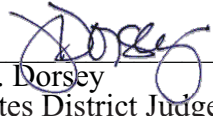
1 result in dismissal satisfies the fifth factor’s “consideration of alternatives” requirement.<sup>12</sup> The  
2 fourth factor—the public policy favoring disposition of cases on their merits—is greatly  
3 outweighed by the factors favoring dismissal. Accordingly,

4 With good cause appearing and no reason to delay, IT IS HEREBY ORDERED,  
5 ADJUDGED, AND DECREED that Defendant’s Motion to Dismiss [ECF No. 36] is  
6 **GRANTED; this case is DISMISSED** for failure to serve it by the court’s extended deadline.

7 IT IS FURTHER ORDERED that plaintiff’s remaining motions [ECF Nos. 31, 35] are  
8 **DENIED** as moot, and all hearings and deadlines are VACATED.

9 The Clerk of Court is directed to **CLOSE THIS CASE**.

10 DATED: September 19, 2017

11   
12 Jennifer A. Dorsey  
United States District Judge

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28 <sup>12</sup> *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.